

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ARTS CENTER AND THEATER OF
SCHENECTADY, INC., d/b/a PROCTORS THEATER,

Plaintiff,

-against-

VALLEY FORGE INSURANCE CO. d/b/a CNA,

Defendant.

Case No. 09-cv-1400 (TJM)(RFT)

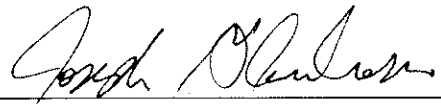
NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT VALLEY FORGE INSURANCE COMPANY'S MOTION TO DISMISS, dated January 7, 2010, Defendant Valley Forge Insurance Company ("Valley Forge") will move this Court at the James T. Foley U.S. Courthouse, 445 Broadway, Albany, NY 12207 on the 8th day of February, 2010, or as soon thereafter as counsel can be heard, for an Order dismissing the second claim in Plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and for such other and further relief as this Court deems just and proper.

Dated: New York, New York
January 7, 2010

Respectfully submitted,

**FORD MARRIN ESPOSITO WITMEYER
& GLESER, L.L.P.**

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